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ABSTRACT

This booklet describes what people can do about child abuse, including the doctor, the hospital, those legally responsible to report suspected abuse, and the social agency. In New York City about 40 children per year die from maltreatment (1% of deaths of children under six years of age). Many parents of battered children were battered themselves. Outward symptoms indicate maltreatment by abusive parents. Day care programs can recognize and report suspicious incidents, prevent abuse, help rehabilitate families and educate the public. When a report is made, the Department of Social Services can close a case, resolve it without recourse to the courts, or gain protection of the State for the child. The doctor treats the child and retains him until the appropriate Family Court convenes. He is responsible for gathering the facts to be used in court proceedings. The court considers the facts, including the child's statements if he is old enough to talk, and makes the disposition of the case. It may suspend judgment, specify some particular form of conduct for the parents, or remove the child temporarily or permanently. A re-hearing may permit the return of the child to rehabilitated parents. The report concludes that a solution of this problem requires the full range of social, medical, psychiatric, legal and educational resources. (DJ)

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CHILDREN AT RISK

The Growing Problem of Child Abuse

Based on a Seminar Sponsored by
The Day Care Council of New York, Inc.
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PROLOGUE

The Day Care Council of New York is a federation of day care centers that first banded together in 1947 as a means of fighting for their fiscal survival when wartime child care funds were cut off. During World War II, day care funds had been generously provided for the children of mothers employed in defense industries and the concept of day care for these children was then both popular and patriotic.

At the end of the war, it was assumed that all mothers would gratefully return to the kitchen and therefore day care funds would no longer be needed. As every woman knows, mothers not only failed to return to the kitchen but their numbers in the labor force continued to increase dramatically in the years that followed.

In 1947, when funds were withdrawn, New York City already had more than 80 day care centers serving the children of working mothers. The citizen boards of these centers then formed a coalition which represented the first organization composed of a true cross-section of the New York community since it included persons who had never worked together before, being of diverse backgrounds as to race, economic level and points of view. This coalition then organized itself into the Day Care Council which was to be a continuing representative of their citizen interests as well as a watchdog for the protection of children in programs.

In the years that followed, this unique organization played an important role in achieving a number of significant gains for day care programs in New York City and sometimes the nation. Some of these gains included the following "firsts."

- First peacetime allocation of City tax monies for day care programs.
- First commitment to provide day care space in every low-income Public Housing Development.
- First funds from New York State provided for day care on a matching basis with municipalities.
- First program-wide staff pension plan instituted for all personnel employed in day care centers.
- First credit-bearing pilot training programs instituted to upgrade the skills and careers of personnel already employed in day care as well as those newly entering the field.

Today, with the increased public interest in day care and 160 member centers, New York's Day Care Council is more active than ever on a number of fronts. These include working with new groups seeking to open programs for the first time as well as helping older agencies to evaluate their work. Assistance to new boards is an especial concern of the Council's and involves helping them toward smooth operation and toward instituting whatever kind of education program will best reflect parents' desires for their children. This handbook for new and old day care boards is part of that continuing effort.

CHILD ABUSE AS A GROWING SOCIAL PROBLEM

In this booklet we will be discussing a problem which, for the past many years, has been very difficult for us to accept as happening. It is obvious by the expression of general public interest that people are at last beginning to believe what we have been saying about child abuse and neglect.

Children are being killed every day in this city, in this country, and we hope that with booklets such as this we will be able to reach the people who can do something about the problem.

This publication will discuss what the doctor does, what the hospital does, what those legally responsible to report suspected abuse do, what the social agency does, and how they all follow through. It will talk about the social and legal implications of the Child Abuse Law as it exists today.

Let us first explore some of the broad dimensions of child abuse and neglect and give an overall perspective as a background for more specific information. We will give particular emphasis to the question of the size and nature of the child abuse problem, and will focus primarily on New York City.

Furthermore, the focus is on people as groups as opposed to the way a clinician or social worker sees people in the person-to-person relationship, for we see child abuse as a complex socio-medical-legal problem. Caught up in the child abuse problem and struggling with it are children, parents, families, community services and systems, as well as the general public. In this complex inter-relationship, emotions run high and objectivity is very often difficult to achieve.

Historically, child abuse is not new. Children have always been subjected to physical and non-physical abuse by adults, and it was even legal in some early cultures. The recent impetus for increased concern about physical abuse came from clinical and x-ray observations and medical studies. These led to the suspicion and eventual confirmation that many unexplained injuries in young children are actually inflicted on them by their own parents and caretakers.

It was not until the 1960's that the publicized descriptions of abused children really shocked the public conscience. Within a brief two-year period, between 1963 and 1965, almost every state has passed laws mandating the reporting of child abuse to an official agency.

By now all 50 states have laws requiring reporting of suspected abuse and new laws are being enacted to establish systems of protection for the children. A major objective of these laws was to identify children injured as a result of maltreatment and to assure medical and social care and preventive services for the child, his siblings, and his parents. A secondary purpose of the laws was to provide a way of learning more about the nature and scope of child abuse than had been possible through the isolated clinical studies of earlier years.

IS NEGLECT THE SAME AS ABUSE?

Social Welfare agencies all agree that only a small proportion of all child abuse actually represents *intentional* child abuse by parents, as distinct from the far larger numbers of children who are neglected. However, some authorities believe that

neglect and abuse form a continuum, with identified abuse, a very modest portion of the total problem.

Other authorities feel that abuse and neglect are separate entities, each quite different from one another; and still others think that abuse and neglect, whether or not they are related, co-exist in the community. In New York City the present working definition of the official child abuse registry includes both abuse and neglect.

HOW WIDESPREAD IS THE PROBLEM?

The actual size of the problem remains a mystery, but we can approach it from several different vantage points. For instance, how does child abuse compare with other health problems of children in terms of illness, disability, and death? Exact figures are not available but certain trends are evident.

We know that children who are abused tend to be under six years of age, and the most serious injuries are likely to be among the two- and three-year-olds. In New York City about 4,000 children under six years of age die each year. We are certain that at least 1% of these deaths, or 40 per year, represent maltreatment.

This is certainly not the leading cause of death, ranking behind diseases of early infancy, congenital malformation, influenza, pneumonia, cancer, and accidents. But it is being increasingly recognized that accidents or even some of these other causes of death can sometimes be attributed basically to child abuse and neglect. Hospital emergency room studies indicate that possibly 10% of children who are treated for accidents are actually victims of maltreatment.

Another way of estimating the size of the child abuse problem is to look at the figures in a nationwide study of legally reported abuse incidents. It was found that New York State as a whole in 1968 had reports of physical abuse for one out of every ten thousand children under sixteen years of age. New York State ranked eleventh among all states in the nation in terms of frequency of child abuse events.

These figures are not exact, but it is known that about 80% of all child abuse reports in New York State come from New York City, and this suggests *that our population may be at special risk.*

In the experience of pediatricians, it is felt that, if the true statistics were known, child abuse would be the most common cause of death in children. In New York City alone this past year one child a week was killed by a parent! And throughout the nation, doctors have estimated that one to two children are being killed each week. If one child a week died of polio, or any infectious disease, we would have all kinds of immunization programs.

It is our feeling that child abuse is on the increase.

WHOSE CHILDREN ARE ABUSED?

There has always been a greater percentage of children under the age of one who get battered because they cannot tell the story or run away. Nowadays more drug addicted parents are giving birth and so the number of abused children under one year of age includes these children who are being born with drug withdrawal symptoms, either from heroin or methadone. Also, if a drug addicted mother cannot take care of

herself, she certainly cannot take care of her child. So the child abuse law as it exists today indicates that a child with drug withdrawal symptoms should be kept in a hospital until investigation can assure that the mother or father is able to care for him.

Educational programs may have helped to achieve better reporting, but there are more child abuse cases and more battered children. They stem from alcoholism, drug abuse and difficult living conditions of crowding and deprivation.

Of course, we see a lot more child abuse in low income families because they surface. They have to go to public hospitals such as Bellevue or St. Vincent's. Middle income people can go to private physicians who may or may not report abuse and who may or may not suspect it. Less than 1% of the reported cases of child abuse in New York City came from private doctors.

And middle income families can turn their children over to nannies, or send them off to school so that there is less stress on themselves. But, even so, there can be emotional battering and deprivation which can lead to some of the same results.

We suspect that for every case of child abuse there are hundreds that go unreported, and that they exist in all strata of society. No one is going to beat a child in the street or in a place where everyone can see it. It is usually done behind closed doors and shuttered windows.

What happens to children who are abused and survive? Compared with other children who have grown up with the usual childhood illnesses, abused children run a very high risk of being handicapped by mental, physical, or emotional problems.

It is not only a question of saving an individual child's life or preventing permanent trauma, but it must always be remembered that many of the parents of battered children were battered themselves by their own parents or foster-parents. They may have gone from one foster home to another. They have rarely known love, and thus they

couldn't give it to their own children. More important still, studies have been conducted which show that hard-core criminals, the murderers of our society, have themselves been battered or maltreated by their parents.*

Abuse leads to abuse: We must break the vicious cycle of violence breeding violence.

HOW TO RECOGNIZE AN ABUSED CHILD

Let's talk for a moment about some factors associated with child abuse. A composite picture of families studied on a community-wide basis shows that in New York City abusing families have these characteristics:

- Social and mental problems are common, including drug addiction.
- Rates of out-of-wedlock births among the abused children are high.
- There is frequent family disunity.
- The majority of the families live in poor, over-crowded housing.
- There is little pre-natal care.
- There are high infant mortality rates.
- There are high tuberculosis and venereal disease rates.
- There are high crime rates.

*Study by Dr. Herbert H. Frazier, Jr., Columbia College of Physicians & Surgeons.

Knowing that a common background of abuse often exists, let us now look at some of the characteristics of the abused child and of the abusing parent as an aid in identifying possible cases. **We have to prevent a child's death by knowing how to pick out children *before* they are battered.**

The "battered baby syndrome" brought the problem of its prevention to the attention of medical, legal, and social disciplines of our country and led us to define the "maltreatment syndrome."

The outward symptoms of the maltreatment syndrome which a teacher, physician, nurse, clinic, or dispensary should recognize are:

- Failure to thrive
- Poor skin hygiene
- Dirty fingernails
- Diaper rash
- Dirty, torn, or inadequate clothing
- Repressed, irritable, or aggressive personality
- Bruises, burns, scars, or abrasions and parent's reluctance to answer questions about them.

So you may be on the lookout for the child who is aggressive, disruptive or destructive, the habitual truant, or the child who is chronically late. He will be inadequately dressed for the weather and his clothes will be dirty or torn. He is undernourished and sleeps in class or the day care center. He is in need of medical care and seems anemic. And, if you see that he also has welts and bruises or a black eye, you can surely suspect abuse.

This child is crying out for help. If he is an older child he will be hostile, tardy or often absent from school. When he does show up he may have a black eye or fractured or dislocated arm. And his clothes are dirty, he is not properly bathed, and he smells.

Unless you pick this child up and do something about him, unless you see how the family can be helped, this is a child that is eventually going to be brought to the emergency room—and then it may be too late. The battered child is the last phase of the spectrum. It doesn't take any diagnostic ability to recognize him. He is bleeding from the mouth and parents have brought him to the hospital because they panicked.

HOW TO RECOGNIZE ABUSING PARENTS

And who are these parents? As we have said before, they were usually the victims of abuse and neglect when they were very young, and it is essential that we develop a compassionate attitude toward them, knowing that they need help as much as the children do. Programs must be directed not only toward helping the child by separating him from his parents, but also by trying to find solutions that might keep the family together. We have to treat each family as an individual case and come to a solution which will benefit both the child and the parents. Of course, we don't believe that any child should be kept in a life-threatened situation. We must never sacrifice a child's life in an effort to keep the family unit together.

Many of the parents who come into the emergency room with their children are really asking for help. We hear the child's cry but the mother or the father is crying out too.

We often hear parents actually say to us, "You had better take this child away from me because if you don't I am going to kill it!" And sometimes they have. Even if the mother

doesn't say take the child away in so many words, she is stiil asking for help.

Often the parents behavior takes an extreme form, they will be aggressive when they are approached, or apathetic and unresponsive. The children will describe bizarre behavior on the part of their parents and the parents will be unwilling to participate in activities or have their children take part in them.

One of the tell-tale signs of possible abuse is a parent's improbable account of Johnny's accident. A child will come into the emergency room and he is really battered. When we ask how it happened the parents will say, "He fell out of bed, or the crib, or the highchair." If you look at the child and listen to the story, the highchair would have to have been on top of the Empire State Building! Many parents won't tell you what happened. They will say, "It's none of your business," or "I don't know," or "He was fighting with the other children."

We see a lot of burns in the hospital. "The coffee pot fell on the child." This is possible. But, always think of the possibility that this might be the result of inflicted neglect and not an ordinary accident. The child might well have been hurt while the mother went out and left the child alone.

Another indication is multiple visits to the hospital. A mother will take her child to Bellevue one week, next month to St. Vincent's and then to another hospital and another, hoping that he won't be followed and that they won't be suspected. Fortunately, we now have a *Central Registry,* and it helps to confirm suspicions of child abuse. All cases from all reporting sources go into the Central Registry, so that one can see immediately how many times a particular child has been brought to the attention of a doctor and with what symptoms.

One of the most dramatic examples of neglect concerns "boarder babies." These are the chilren abandoned by their families who languish in hospitals long beyond their need for

medical care because there is no place for them to go. In 1968 there were 147 such children here in New York City. Some of them had been in the hospitals for months or years. A calculation of the immediate cost to the City in direct hospital billings came to over one and one-half millions of dollars for these 147 babies.

THE ROLE OF THE DAY CARE PROGRAM

What does all this really have to do with day care? There is almost no level of preventive or supportive service in which day care might not be involved:

- In *recognizing* and *reporting* suspicious incidents.
- In *prevention*—by giving families outlets and contacts through increased contacts with other parents and involvement in programs, relieving parents from social isolation and serving as a safety valve for families under stress.
- In *helping to rehabilitate* families known to the courts and social agencies.
- In *educating* the public about child abuse and helping to promote constructive community attitudes.

Remember that day care workers are among those obligated by law to report abuse. We realize that this is a difficult situation because of the technical problem of getting the child into a protective facility, but here the hospital comes into play as a very important arm of society.

WHAT TO DO WHEN YOU SUSPECT ABUSE

For the sake of the children, it is best to bring them to the hospital, preferably with the assistance and willingness of the parents. Many parents will be only too grateful if you will assist them by directing them and even going with them to a medical care facility. They will literally breathe a sigh of relief. Most of the larger voluntary and municipal hospitals have pediatric and attending staffs that are quite attuned to the diagnosis of child abuse.

In this case the doctor will take over responsibility of reporting. (See the following section for the role of the doctor.)

But take the more common situation where abuse is suspected and you wish to report your suspicion and turn the job of investigation over to the agency responsible for follow-up of such reports. Let us state again:

New York statute requires directors of day care centers to report any suspicious case to the Department of Social Services, Emergency Children's Service of the Bureau of Child Welfare, 431-4680-1-2-3. In requiring them to report, the law gives the same protection it gives a doctor, hospital or school teacher, that is, immunity to lawsuits as a result of such reporting.

The difficulty in making the decision to report a case is that here we are asked to make a value judgment. The law says you shall report if you have reasonable grounds to believe that a child has been abused, but it will be very difficult for anyone to come to you after some tragic incident and say, "You deliberately didn't report."

So the law isn't enough. We must educate responsible people as to what happens after the report is made so that their very understandable reluctance will be minimized. A lot of people still feel that when a report is made under the law

the first thing that happens is that Mommy or Daddy is arrested and thrown into jail. This is not usually the case.

WHAT HAPPENS WHEN A CHILD ABUSE REPORT IS MADE

When a report is made to the Department of Social Services or to the Society for the Prevention of Cruelty to Children, the law requires them to investigate the situation and to "offer protective social services to prevent injury to the child, to safeguard his welfare and to preserve and stabilize family life whenever possible."

Therefore, once the responsible person has secured any needed medical care and protection for the child, he must conduct an investigation. The cases will fall into the following three broad categories:

(1) At one extreme of the pendulum is **the case which can be closed and forgotten.** These cases do not necessarily stem from reports made maliciously or spitefully. They can be honest mistakes of fact. In a case a few years ago a youngster was admitted to a hospital in New York with the almost unbelievable story that something had hit him on the head as he and his mother were walking out of their building, causing rather severe injury. The case certainly warranted investigation but the fact of the matter was that children playing on the roof had dropped something on the child's head as he and his mother walked out the door. This did not minimize the injury, but it proved that it was **not** the result of abuse and that this child did not need protection.

(2) The second large category of cases are **those which can be solved without recourse to the courts.** After the facts have been gathered, the diagnosis made, and the course of treatment decided upon, arrangements for necessary social, psychiatric, or other services can be made without taking the case to court.

(3) There remain a percentage of cases where it is necessary **to gain the protection of the state for the child.** This is done by a child protective proceeding before the family court. There are some situations which constitute not only child abuse and neglect but also crimes of assault, endangerment, or one of the frequent sex crimes. These cases cannot always be proven by the standard criminal law and it may not be advisable to do so as the imprisonment of a parent could result in further abuse and neglect of the child.

Therefore, such cases are transferred to the family court, eliminating the criminal proceeding. If the family court decides its facilities are insufficient to deal with the case it may send the case back to criminal court, but it may retain jurisdiction over the child to protect him. The family court is a civil court, and its purpose is to protect the child and strengthen and rehabilitate the family.

The protective worker has to be prepared to establish by admissable evidence the facts which spell neglect or abuse. This makes his job very difficult. He cannot take secondhand or hearsay evidence. He must talk to actual witnesses.

However, once the facts are properly developed they are presented at the adjudicatory or fact-finding hearing at the conclusion of which the court may dismiss the case if the facts have not been proven or, if they have, make a finding of neglect or abuse. As we have mentioned before, this finding is not intended to punish. It is rather to protect the child and

try to correct the problem for the future.

The court has very broad powers of discretion. It may immediately parole the child back into the home under the supervision of its parole department. In doing so it may issue "orders of protection," directing the parents to refrain from certain conduct or to agree to certain conduct in order to correct the problem which caused the neglect. It may, of course, place the child outside the home with relatives or in an institution if necessary.

If the father is the disturbing factor and the mother is doing the best she can under the circumstances, the court may order the father to move out of the home and permit the children to remain in the mother's custody, arranging for visitation and support payments.

It can order the parent to undergo psychiatric evaluation, and if necessary, commit him or her to a hospital for observation for a period of time. And it may order any necessary medical, surgical or psychiatric care the child needs.

In other words, the court can issue almost any reasonable order which is intended to correct and cure the neglect or abuse.

In reporting your suspicion of a case of child abuse remember that you are not deciding that the parent has abused the child. You are merely alerting the agency which is given responsibility by the government so that the agency can inquire into the situation and determine whether or not the child needs protection. Don't feel that you should wait until you have gathered all the facts or until you have absolute proof. It is the job of the expert in the field of child protection to develop the facts. He will enter the situation as a result of your complaint. You should understand that the job of the protective worker is very difficult, going in uninvited to a home to discuss something which at best is unpleasant can give rise to some very understandable hostility. It takes a great deal of skill to overcome this hostility and gain the confidence of the parents so that they can be

helped. So have some sympathy for the worker when he comes around to talk to you about a report you may have made. His is not the easiest task in the world.

Another distinguishing characteristic of the protective agency is that it must stay with the situation as long as is necessary to resolve the problem—either through its own efforts or by referral to some appropriate specialized agency.

Lastly, the protective agency will, when necessary, initiate legal proceedings for the protection of the child.

As we have said before, it would be appropriate for you to take a child you had reason to believe had been abused to a hospital where he could be retained. This is good advice, but there will probably be situations where you are unable to achieve this, where the parents are resistant, or where the child's condition is such that you can insist on medical treatment. This doesn't let you off the hook! You still report it to the Department of Social Services.

In this connection, if there is not time to obtain a court order and the child is found to be in imminent danger, a peace officer, policeman, an SPCC worker, or a worker from the child protective branch of the Department of Social Services, has authority to remove the child from his parent's custody temporarily pending court action.

ROLE OF THE DOCTOR AND THE HOSPITAL

Let us now look at the doctor's role under the law if you have taken the child to the hospital.

In order to describe the physician's responsibilities a review of some of the recent New York State legislation is in

order since a good deal of what the hospital does is based upon what it and the physician are mandated to do by law.

First the reporting law: this law states that any physician, surgeon, dentist, medical examiner, coroner, osteopath, optometrist, chiropractor, registered nurse, Christian Science practitioner, social worker, or school or day care employee having reasonable cause to suspect that a child under sixteen years of age has had a serious injury inflicted on him by other than accidental means, must report this fact to the New York City Department of Social Services.

Whoever makes such a report in good faith is immune from a lawsuit resulting from such reporting. This has relieved the onus from a good number of physicians who had been understandably hesistant to report a situation because they were afraid of a countersuit, should the case be thrown out of court. **The law also waives the confidentiality of the patient-physician relationship,** thus allowing the doctor to use all the information at his disposal when he files his report.

The oral report should be followed within 48 hours by a written report to the Bureau of Child Welfare, indicating the condition of the child, the family background, including other children (since suspicion of abuse of one child immediately puts other children under suspicion also), and the hospital's plans for further action.

If a hospital has in its charge a child suspected of being abused, the law specifically authorizes it to retain custody of the child until the next regular session of the pertinent section of Family Court. The hospital may retain such custody if the child is in such condition that continuing in his place of residence or in the care and custody of the adults legally responsible for his care presents an imminent danger to his life or health. Such custody does not require that a child need additional treatment.

Once the doctor who is appropriately sensitive to the signs and symptoms of abuse has seen the child, his course is clear.

If his suspicion is minimal he has access to the central registry. A call may reveal that the child has made multiple other hospital visits where other physicians have reported suspicion of abuse but where there was not enough evidence to bring the case to court or to remove the child from the parents' custody.

This additional information in the central registry will allow the physician to exercise a more appropriate educated discretion as to whether to hospitalize the child or have him removed from the home.

The physician's first responsibility is to the child. He must diagnose and treat his complaints and not be so attentive to the parents' needs that he will return a child to sick parents. At the same time, he must try to enlist their cooperation. This requires a great deal of experience and skill which is not always readily available in the busy, harried emergency room. More work must be done to educate the house staff in hospitals in this area.

The doctor must explain that the law requires him to report the abuse and permits him to retain custody of the child until the next session of the Family Court—possibly on the next day. It is no longer necessary to get a family court judge out of bed at one o'clock in the morning and have him come down to the hospital and put court into session in order to prevent a child from being taken out of the hospital!

Since the pediatrician and his staff are best equipped to care for the child as a whole and to perceive the entire intra-family situation, the abused child should be in the pediatric service. Of course, fractures should be treated initially by the orthopedic staff, but once the leg is in a cast his larger problems will be more appropriately handled in a pediatric setting.

The report of child abuse is made immediately if suspicion is raised, or when subsequent rounds and examination have revealed the possibility of abuse.

The doctor now has the obligation to gather the facts

which will be used in the first, or fact-finding stage of the Family Court proceedings. The components of fact-finding include:

(1) Colored photographs which should be taken as soon as possible after admission. Photographic documents of malnutrition, burns, bruises, and other visible signs which may have disappeared by the time the case comes up in court, will be of extreme help in the case.

(2) X-rays of all the bones of all extremities, skull, chest and abdomen should be taken to document any unsuspected area of trauma.

(3) A complete evaluation of the child's clotting mechanism, if there are unexplained bruises. This is not mandated by law, but it is extremely helpful to rule out the possibility of some congenital bleeding tendency rather than abuse.

(4) Further evaluation of the family must be made with the assistance of the Social Services Department of the hospital and the doctors and nurses who care for the child and can observe parental interaction. In this regard interviews must be conducted and home visits made. This is obviously a very time-consuming and expensive process.

THE ROLE OF THE LAW AND THE COURTS

The Family Court Act, Article X, or the Child Abuse Protective Proceeding, enacted in 1970, directed that cases of child abuse or neglect come within the purview of the Family Court. As a civil court, the Family Court is far better equipped to deal effectively with these cases.

The previous criminal law, "Endangering the Welfare of the Child," required that guilt be proven beyond a reasonable doubt. This is frequently impossible without the confession of the perpetrator, presumably the parent in most child abuse situations. Also, the victim is often very young and there are no witnesses. The criminal court is also virtually unable to provide interim protection of the child or effective rehabilitation of the parents.

A separate part of the Family Court has been designated to process child abuse cases. This will help to combat the over-crowded family courts and give the judges experience with child abuse cases. In the past, we have found it hard to find a judge who understood the situation and some of them have tended almost to throw the cases out of court because they were so unbelievable.

The law mandates that a lawyer be appointed to represent the interests of the child. It also provides that, in New York City, a representative from the Corporation Counsel's office represent the complainant. The doctor therefore can have the services of a member of the Corporation Counsel to present medical evidence and ancillary information in a proper and logical legal fashion to the court so that it may be understood.

A medical examination by a court-appointed physician is also specified, however, the hospitals can and should do this job properly so that the court does not have to appoint a specific physician who may not be experienced in this area.

In handling a case of child abuse the Family Court usually

proceeds through two stages. The first is the fact-finding stage during which evidence is presented to substantiate that alleged acts occurred and that they resulted from intentional or negligent conduct.

Because of the difficulty of proving that a child's injuries were inflicted by the parents, the usual laws of evidence have been changed in cases of child abuse so that the doctrine of "res ipsa liquitur," or **"let the facts speak for themselves"** applies. Thus, if any injury or condition is substantiated that would not ordinarily exist except by reason of acts or omissions of the parents, this in and of itself is accepted as evidence of child abuse.

Two examples:

(1) A four-week-old child who cannot even roll over would be a very unlikely candidate to fall off a bed and fracture a leg or arm.

(2) Burns on the buttocks and heels alone of a three-year-old child are hard to explain by saying that the child stepped into a tub of too hot water. The actual fact, as the parent later admitted, was that she had literally lowered the child into a hot tub to punish him, causing the burns of both heels and a large portion of the buttocks.

If the child is old enough to talk, his own statements are admissable as evidence. And the law permits proof of neglect involving one child to be used to investigate possible neglect of other children in the same family.

The second stage is the disposition of the case, rehearing and rehabilitation. Many alternatives are open to the Family Court. **It may decide merely to suspend judgment contingent upon continual supervision or probation of the parent or parents.** It can specify some **particular form of conduct** to be

followed as, for example, continued psychiatric care, or the interdiction of the mother's lover to the house (if he was the injuring party) with the understanding that if he does not comply the child will be permanently removed from the mother's care.

The court can also **remove the child temporarily or permanently** and specify the place of temporary or permanent custody.

The law recognizes the possibility of parental rehabilitation and thus provides for a re-hearing so that removal of a child from his home may be temporary. Authorities believe that with appropriate social and rehabilitation facilities, close to 80% of parents who have abused or neglected their children can be sufficiently rehabilitated so that the children can live relatively productive lives in their homes. Only about 20% are hard core cases where one has to admit failure and keep the children in the permanent custody of some other facility.

The re-hearing serves to determine whether the pre-existing problems have been rectified and whether the parents, wishing sincerely to improve themselves, have become sufficiently functioning to care for their child.

WORKING WITH ABUSING PARENTS

Most authorities feel there are three important aspects in dealing with parents (and this applies also to the day care directors and teachers):

(1) The physician or teacher cannot be judgmental. He

should restrain himself very consciously from ever expressing anger and should show himself willing to help.

(2) The physician or teacher must realize that the parents are usually eager to be helped.

(3) The physician must keep the parents informed on a day-to-day basis and in an ongoing way, before they ask questions and tell them about the child's condition. He must explain the tests, the various findings and tell them what is planned. He must do this in order to maintain what has hopefully started as a good relationship with the parents and so that possibly 80% of these children may eventually return home

The physician's responsibility does not end when the facts have been collected and the child is in temporary custody. He must also assist the court in its ultimate decision by the most effective presentation possible on all the facts that have been gathered by the hospital health team. His report must be detailed and specific but couched in terms that are understandable by a judge. It must be documented with x-rays, color photographs, and appropriate laboratory tests. And the recommendations of the hospital health teams must be stated in terms of great specificity.

Hopefully the courts will take more and more credence of this type of specific recommendation. This will depend on the experience of the family court personnel, the physicians, and the lawyers who assist the physicians. And, hopefully, the decision-making by the physician and the hospital will take precedence over any other type of decision-making in the court.

WHAT ABOUT THE FUTURE?

Any approach to a solution to this problem calls for a multi-disciplined cooperation. The kinds of services include the full range of social, medical, psychiatric, legal and educational resources. These costs will be considerable. But the greatest cost of child abuse is the loss to society of productive lives, the repetition of dependency over the years and the recourse to violence as a reaction to life's problems.

The problem of child neglect and abuse is the problem of all of us and cannot be weighed in terms of dollars.